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MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO PC
ONE FOUNTAIN SQUARE
11911 FREEDOM DRIVE, SUITE 400
RESTON VA 20190

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FEB 21 2002

OFFICE OF PETITIONS

In re Application of :
James H. Johnson and John Didomenico :
Application No. 09/840,080 :
Filed: April 24, 2001 :
Attorney Docket No. 47382.000123 :
Title: REMOTE VEHICLE EMISSION :
SENSING DEVICE WITH SINGLE :
DETECTOR :

DECISION REFUSING STATUS
UNDER 37 C.F.R. §1.47(b)

This is in response to the petition under 37 CFR §1.47(b)¹, filed November 21, 2001.

The petition under 37 C.F.R. §1.47(b) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. §1.136(a).

¹ A grantable petition under 37 CFR §1.47(b) requires:

- (1) The petition fee;
- (2) a surcharge if the petition was not filed at the time of filing of the application;
- (3) a statement of the last known address of each of the non-signing inventors;
- (4) proof that a copy of the application was sent or given to each of the non-signing inventors for review;
- (5) proof that each of the non-signing inventors refused to sign;
- (6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
- (7) proof of irreparable damage, and;
- (8) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

The above-identified application was filed on April 24, 2001. On May 10, 2001, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition (and fee), the surcharge associated with the late filing of an oath or declaration, a declaration executed by neither inventor, a statement from the petitioner, a declaration from Christopher Cuneo (an attorney of record) which establishes a proprietary interest, a statement of facts from Mr. Cuneo, copies of letters sent to both non-signing inventors, and a declaration executed by Niranjana Vescio (an employee of the purported assignee) (Corporate Secretary of the Assignee). To make timely this reply, a four-month extension of time was requested. This fee has been charged to counsel's Deposit Account, as authorized in the petition.

Rule 47 applicant has met requirements (1), (2), (6), and (8) above.

Regarding requirement (3) above, petitioner has failed to provide a statement of the last known address of each of the non-signing inventors.

Regarding requirement (4) above, petitioner has failed to establish that each of the inventors was presented with a complete copy of the application. Each of the letters sent to the non-signing inventors request that the recipient contact the sender so that copies of the necessary documents can be reviewed and executed. This language indicates that complete copies of the application were not sent to the non-signing inventors for review.

Regarding requirement (5) above, in view of the preceding paragraph, it follows that one cannot refuse to sign something which he has not been provided with.

Regarding requirement (7) above, there has been no showing of proof of irreparable damage.

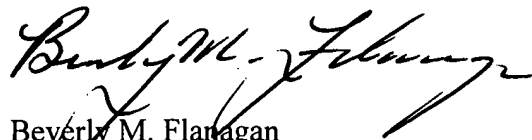
Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries regarding this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

A handwritten signature in black ink, appearing to read "Beverly M. Flanagan". The signature is fluid and cursive, with a long, sweeping underline.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy